



judgment as a matter of law even if it correctly appears to the court that no reasonable jury could find in favor of the non-moving party. The “court **may** determine the issue against that party and **may** grant a motion for judgment as a matter of law.” Rule 50(a), Fed.R.Civ.P. (Emphasis added.) The Advisory Committee Note accompanying the 1991 amendments to Rule 50(b) explains that “because a jury verdict for the moving party moots the issue and because a preverdict ruling gambles that a reversal may result in a new trial . . . , the court may often wisely decline to rule on a motion for judgment as a matter of law made at the close of the evidence.” Rule 50(b), Fed.R.Civ.P., Notes of Advisory Committee on Rules — 1991 Amendment; *see also* Wright & Miller, *Federal Practice and Procedure* § 2533, at 517 (3d ed. 2008) (“the appellate courts repeatedly have said that it usually is desirable to take a verdict, and then pass on the sufficiency of the evidence on a post-verdict motion.”).

Exel hereby renews its motion for judgment as a matter of law as to the issues of liability and punitive damages pursuant to Fed.R.Civ.P. 50(b) and requests that this Court enter judgment as a matter of law in favor of Exel on these issues. Alternatively, should the Court decline to grant Exel judgment as a matter of law, Exel moves for a new trial in this matter pursuant to Fed.R.Civ.P. 59. The

grounds supporting this Motion are set forth in the Memorandum of Law in support filed herewith.<sup>1</sup>

### **FONT CERTIFICATION**

Pursuant to LR 7.1D, NDGa, undersigned counsel for hereby certifies that Defendant's Motion and supporting Memorandum of Law were prepared using Times New Roman (14 point), as approved by LR 5.1B, NDGa.

Respectfully submitted,

/s/David R. Kresser

David R. Kresser  
Georgia Bar No. 429615  
dkresser@laborlawyers.com

/s/Terri R. Stewart

Georgia Bar No. 244624  
tstewart@laborlawyers.com  
FISHER & PHILLIPS LLP  
1075 Peachtree Street, NE  
Suite 3500  
Atlanta, Georgia 30309  
(404) 231-1400  
(404) 240-4249 Facsimile

COUNSEL FOR DEFENDANT

---

<sup>1</sup> Trial exhibits will be cited PX for Plaintiffs' exhibits and DX for Defendant's exhibits. The trial transcript will be cited by reference to the testifying witnesses' initials, when applicable, followed by the transcript page numbers throughout the Memorandum in Support. The corresponding witness initials are as follows: CT = Contrice Travis, DH = David Harris, LG = Lisa Guydon, FH = Franklin Hudson, MM = Marie Murphy, KT = Kenny Teal, MP = Michael Pooler, DC = Donald Crankshaw.

**CERTIFICATE OF SERVICE**

I certify that, on July 10, 2013, I electronically filed **DEFENDANT’S RENEWED MOTION FOR JUDGMENT AS A MATTER OF LAW OR, ALTERNATIVELY, FOR A NEW TRIAL** with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to the following attorney of record:

Ottrell L. Ferrell  
Robert K. Dawkins  
Sairalina Montesino  
Steven A. Wagner  
Equal Employment Opportunity Commission – ATL  
Atlanta District Office – Legal Unit  
100 Alabama Street, S.W.  
4R30 Atlanta Federal Center  
Atlanta, GA 30303-8704

Rudjard M. Hayes  
Joan M. McCallum  
Sanchez Hayes & Associates, LLC  
1015 Tyrone Road  
Suite 620  
Tyrone, GA 30902

/s/David R. Kresser  
David R. Kresser